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Dear Ms. Hesse,

As a professional in the computer industry, who began writing code for Internet applications in 1984, and the founder and Chief Scientist of an Internet Security Service company, I have followed the Microsoft case very closely over the last several years. Microsoft's antics during the original anti-trust trial were comical to those of us who understand the truth behind their technology and competition claims. But I was encouraged by the government's ability to sort through the majority of these games and to prevail in the original judgment.

But I have been quite upset by the current governments seeming lack of interest in imposing any meaningful remedies in this case. The proposed settlement leaves loopholes big enough for even the most amateurish company to drive a truck through, and we all know that Microsoft is far from an amateur when it comes to exploiting these sorts of situations.

Microsoft's proposal to quell the class-action lawsuits by donating hardware and software to schools makes me shudder. Education is one of the last arenas where Microsoft's monopoly is less secure. Providing Microsoft software to these schools will, in effect, lock them into this platform. California Attorney General Bill Lockyer was right when he said "It's a little like Big Tobacco being found guilty of selling cigarettes to minors, and the remedy is for them to agree to give them free cigarettes."

The proposed settlement is very weak, and will do little to reduce the control that Microsoft holds over this industry. I join Matthew Szulik, the CEO of RedHat, Inc., in my astonishment that a firm with a 96% market share, who has a terrifying track record for destroying competitors, and whose guilt has already been established is being offered the improved terms of this proposed settlement.

I believe that any settlement that hopes to remedy the issue before us must at minimum:

1. Provide a guarantee that all Microsoft networking and client/server protocols be published in a full and complete manner, and verified by an independent third party, and further, be provided to the public at the time it is provided to their own internal programmers and application developers.
2. Microsoft should not be able to offer incentives or threaten punishment to computer manufacturers or resellers that results in Microsoft software being included by default in all system purchases. In the past, I have purchased equipment that was bundled with MS software – a request to unbundled the software resulted in absolutely no price difference, or at most a few dollars. This must stop to encourage competition.

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3. All Microsoft document file formats (present and future) must be public and complete, to allow other operating systems and software to read and write files in these formats.

4. Microsoft must not be the party that is allowed to determine what software is part of the Windows operating system.

5. Microsoft must provide all information and specifications, not just to commercial entities, but to the public at large, to enable the creation of compatible or competitive software and systems by open-source proponents, and non-profit corporations or organizations, as well as individual programmers working on their own. For example, the requirement that to qualify as a middleware product under the terms of the settlement, the competitor must have distributed at least 1 million copies of the software in the previous year. This allows Microsoft to annihilate start-up companies and individual developers at will.

6. The settlement's provision that Microsoft need not "disclose or license to third parties: (a) portions of APIs or Documentation or portions or layers of Communications Protocols the disclosure of which would compromise the security of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems, including without limitation, keys, authorization tokens or enforcement criteria", provides them with another one of those truck-sized loopholes.

It is well known and accepted in the academic and open-source world that peer review of code and protocols results in more secure systems. This is a blatant attempt by Microsoft to create a loophole that will allow them to stifle competition.

7. The definition that an ISV is "is engaged in the development or marketing of software products designed to run on a Windows Operating System Product" allows Microsoft to deny rights to those of us who develop systems for other operating systems such as Linux, which require access to the APIs and code that should be made public.

In summary, I have to believe that a settlement that is truly good for the industry and good for America would place a real remedy above expediency.

Sincerely,



Thomas A. Johnson